

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE FEBRUARY 24, 2009

SENATE BILL

No. 39

Introduced by Senator Benoit

(Principal coauthor: Senator Romero)

(Principal coauthor: Assembly Member Nestande)

**(Coauthors: Senators Ashburn, Cogdill, Cox, Denham, Dutton,
Harman, Hollingsworth, Huff, Maldonado, Runner, Strickland,
Walters, and Wyland)**

(Coauthors: Assembly Members Anderson, DeVore, Fuller, Gilmore,
Hagman, Knight, Nielsen, Silva, and Yamada)

January 6, 2009

An act to amend Section ~~1799.102 of the Health and Safety~~ 1714.5
of the Civil Code, relating to personal liability, and declaring the
urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Benoit. ~~Torts: personal liability immunity.~~
Personal liability immunity: disaster service workers.

~~Existing law requires that any person, who in good faith and not for
compensation, renders emergency medical care at the scene of an
emergency shall not be liable for any civil damages resulting from any
act or omission.~~

*Existing law provides that no disaster worker who is performing
disaster services during a state of war emergency, a state of emergency,
or a local emergency shall be liable for civil damages on account of
personal injury to or death of any person or property, as provided.*

This bill would enact the Good Samaritan Protection Act which would
provide that disaster service workers shall not be liable when acting

within the scope of their responsibilities under the authority of the governmental emergency organization, as provided. instead provide that medical, law enforcement, and emergency personnel who in good faith, and not for compensation render emergency care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission.

This bill would also provide that any person, not including medical, law enforcement, and emergency personnel, who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission, as long as that act or omission does not constitute gross negligence or willful or wanton misconduct.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Good Samaritan Protection Act.
- 3 SEC. 2. Section 1714.5 of the Civil Code is amended to read:
- 4 1714.5. (a) There shall be no liability on the part of one,
- 5 including the State of California, county, city and county, city or
- 6 any other political subdivision of the State of California, who owns
- 7 or maintains any building or premises which have been designated
- 8 as a shelter from destructive operations or attacks by enemies of
- 9 the United States by any disaster council or any public office,
- 10 body, or officer of this state or of the United States, or which have
- 11 been designated or are used as mass care centers, first aid stations,
- 12 temporary hospital annexes, or as other necessary facilities for
- 13 mitigating the effects of a natural, manmade, or war-caused
- 14 emergency, for any injuries arising out of the use thereof for such
- 15 purposes sustained by any person while in or upon said building
- 16 or premises as a result of the condition of said building or premises
- 17 or as a result of any act or omission, or in any way arising from
- 18 the designation of such premises as a shelter, or the designation
- 19 or use thereof as a mass care center, first aid station, temporary
- 20 hospital annex, or other necessary facility for emergency purposes,

except a willful act, of such owner or occupant or his servants, agents or employees when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge, treatment, care, or assistance therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority or during a natural or manmade emergency.

~~No~~

(b) Notwithstanding any other provision of law, no disaster service worker who is performing disaster services—ordered by lawful authority during a state of war emergency, a state of emergency, or a local emergency, as such emergencies are defined in Section 8558 of the Government Code, shall be liable for civil damages on account of personal injury to or death of any person or damage to property resulting from any act or omission in the line of duty while performing disaster services anywhere within the jurisdiction covered by such emergency, except one that is willful.

(c) For purposes of this subdivision, a disaster service worker shall be performing disaster services when acting within the scope of the disaster service worker’s responsibilities under the authority of the governmental emergency organization.

(d) For purposes of this subdivision, “governmental emergency organization” shall mean the emergency organization of any state, city, city and county, county, district, or other local governmental agency or public agency, which is authorized pursuant to the California Emergency Service Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because the state has long encouraged Californians to assist others facing danger in an emergency, and the ability to do so without fear of potential suit has been thrown into question by the recent California Supreme Court decision of Van Horn v. Watson, (2008) 45 Cal.4th 322, decided on December 18, 2008, this legislation clarifying the intent of the Legislature needs to go into effect immediately so as to avoid any confusion in this important area of the law.

1 ~~SEC. 2. Section 1799.102 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~1799.102. (a) No person who in good faith, and not for~~
4 ~~compensation, renders emergency care at the scene of an~~
5 ~~emergency shall be liable for any civil damages resulting from any~~
6 ~~act or omission. The scene of an emergency shall not include~~
7 ~~emergency departments and other places where medical care is~~
8 ~~usually offered. This subdivision applies only to the medical, law~~
9 ~~enforcement, and emergency personnel specified in this chapter.~~

10 ~~(b) (1) It is the intent of the Legislature to encourage other~~
11 ~~individuals to volunteer, without compensation, to assist others in~~
12 ~~need during an emergency, while ensuring that those volunteers~~
13 ~~who provide care or assistance act responsibly.~~

14 ~~(2) Except for those persons specified in subdivision (a), no~~
15 ~~person who in good faith, and not for compensation, renders~~
16 ~~emergency medical or nonmedical care or assistance at the scene~~
17 ~~of an emergency shall be liable for civil damages resulting from~~
18 ~~any act or omission other than an act or omission constituting gross~~
19 ~~negligence or willful or wanton misconduct. The scene of an~~
20 ~~emergency shall not include emergency departments and other~~
21 ~~places where medical care is usually offered. This subdivision~~
22 ~~shall not be construed to alter existing protections from liability~~
23 ~~for licensed medical or other personnel specified in subdivision~~
24 ~~(a) or any other law.~~

25 ~~(c) Nothing in this section shall be construed to alter any existing~~
26 ~~legal duties or obligations. The amendments to this section made~~
27 ~~by the act adding this subdivision shall apply exclusively to any~~
28 ~~legal action filed on or after January 1, 2010.~~